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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,252	06/09/2005	Dirk A Heerding	P51399	1871
20462 7590 03/21/2008 SMITHKLINE BEECHAM CORPORATION CORPORATE INTELLECTUAL PROPERTY-US, UW2220 P. O. BOX 1539 KING OF PRUSSIA, PA 19406-0939				
EXAMINER HAYLIN, ROBERT H				
ART UNIT		PAPER NUMBER		
1626				
NOTIFICATION DATE		DELIVERY MODE		
03/21/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

US\_cipkop@gsk.com

### Office Action Summary

**Application No.**

10/538,252

**Applicant(s)**

HEERDING ET AL.

**Examiner**

ROBERT HAVLIN

**Art Unit**

1626

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 45-55 is/are pending in the application.
- 4a) Of the above claim(s) 55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45, 46, 50, 51, 53 and 54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI-108)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

**Status of the claims:** Claims 45-55 are currently pending. On 5/1/07 applicant cancelled claims 1-44 and provided new claims 45-55.

**Priority:** This application is a 371 of PCT/US03/39633 (12/12/2003) which claims benefit of 60/433,482 (12/13/2002).

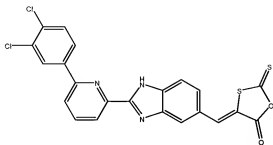
#### ***Response to Applicants Arguments***

1. Claims 45-54 were rejected under 35 U.S.C. 103(a) as being unpatentable over **Ajito et al.** (WO 99/38849, US 6451800), in view of **Ayal-herskovitz et al.** (WO 02/060374) and **Raeymaekers et al.** (US 4,859,684).
2. Applicant argues that the cited prior art is not relevant to an obviousness determination because the references do not teach the identical disorder of the instant claims.
3. Specifically, applicant argues that Ajito is only relevant to people who want to increase platelet activity. This argument is not persuasive because a reference need not address the identical problem to be considered relevant prior art. The fact that the reference teaches methods closely related to the method of the instant claim is sufficient to lead one of ordinary skill in the art to consider its teachings.
4. Applicant also argues that Ayal-herskovitz would not be useful to one of ordinary skill in the art because, although it does teach the compounds as useful for thrombocytopenia (identical to the instant claims), they would have no reason to believe it. This argument is not persuasive because a reference is good for all that it teaches.

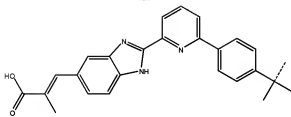
5. Applicant also argues that the compounds of Raeymaekers would not be useful to those of ordinary skill in the art in arriving at the instant invention of a method of treating thrombocytopenia. The examiner has pointed out the structure of the compounds of Ajito and Ayal-herskovitz are so closely related to Raeymaekers that one of ordinary skill in the art would be motivated to combine their teachings to arrive at the instant invention. Furthermore, Raeymaekers teaches compounds useful for treating disorders relating to androgens which are known in the art to be related to thrombocytopenia conditions, for example Danazol is a modified androgen useful for treating thrombocytopenic conditions. Therefore, Raeymaekers was well within the technical grasp of one of ordinary skill in the art for consideration.

6. The rejection of 47, 48, 49, and 52 is withdrawn because applicant's arguments point out the distinguishing structural characteristic of the species in the claim. For example, the following compounds are distinguished from the prior art references:

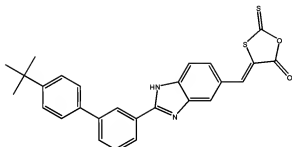
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5-[2-[6-(3,4-dichloro-phenyl)-pyridin-2-yl]-1H-benzimidazol-5-ylmethylene]-2-thioxo-thioxolidin-4-one



(E)-3-[2-[6-(4-tert-butyl-phenyl)-pyridin-2-yl]-1H-benzimidazol-5-yl]-2-methyl-acrylic acid



5-[2-[4'-tert-butyl-biphenyl-3-yl]-1H-benzimidazol-5-ylmethylene]-2-thioxo-thioxolidin-4-one

Rejection of claims 45, 46, 50, 51, 53, and 54 is maintained.

### **Conclusion**

The claims are not in condition for allowance. **THIS ACTION IS MADE FINAL.**

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT HAVLIN whose telephone number is (571)272-9066. The examiner can normally be reached on Mon. - Fri., 7:30am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful the examiner's supervisor, Joe McKane can be reached at (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert Havlin/  
Examiner, Art Unit 1626

/Kamal A Saeed, Ph.D./  
Primary Examiner, Art Unit 1626